

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAY-VEE, INC.,

Plaintiff,

v.

ANNE WITTEMAN, FREEK OLGERS,
PIETER DE VRIES, AND
JASPER PALSTRA, doing business as
THE VERBS,
ROBBIE ADAMS, LESLEY BOYLE
CHARLIE MARR AND MARTIN BLACK,
doing business as THE VERBS, and
ANNE WITTEMAN, FREEK OLGERS,
PIETER DE VRIES, JASPER PALSTRA,
ROBBIE ADAMS, LESLEY BOYLE
CHARLIE MARR and
MARTIN BLACK, individually,

Defendants.
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Docket No.: 07 Civ. 6954 (NRB) (DCF)

DECLARATION OF ANTHONY H. HANDAL

ANTHONY H. HANDAL, an attorney duly licensed and admitted to practice in and before the Courts of the State of New York and admitted to the bar of this Court, declares the following to be true pursuant to 28 U.S.C. § 1746:

1. I am a partner at the law firm of Brown Rudnick Berlack Israels LLP, attorneys for Plaintiff Jay-Vee Inc. in the above-captioned action. I am fully familiar with and have personal knowledge of the facts and circumstances set forth herein.

2. I respectfully submit this declaration in support of Plaintiff's motion for reconsideration of the Order, dated September 21, 2007, denying Plaintiff's request for the use of alternative means to satisfy the personal service requirements on defendants. A true and accurate copy of the September 21, 2007 Order is attached hereto as Exhibit A.

3. The purpose of this declaration is to, *inter alia*, identify and set forth for the Court the facts and documentary materials which support and, upon which the Plaintiff will rely, in connection with its motion for substituted service.

4. On or about September 18, 2007, Plaintiff filed a motion for substituted service pursuant to Federal Rules of Civil Procedure Rule 4(f)(3) on defendants Anne Witteman, Freek Olgers, Pieter De Vries and Jasper Palstra, both individually and doing business as The Verbs, as well as defendants Robbie Adams, Lelsey Boyle, Charlie Marr and Martin Black, both individually and doing business as The Verbs. True and correct copies of the Notice of Motion, Memorandum of Law in Support of the Motion for Substituted Service, and the Declaration of Anthony Handal, each dated September 18, 2007, are attached hereto as Exhibit B.

6. Liz Elfeld, President of American Trademark Investigations, Inc. ("ATI"), whom Plaintiff retained to investigate the addresses at which the defendants could be served, has searched for addresses, current or otherwise, for defendants Anne Witteman, Freek Olgers, Pieter De Vries, Jasper Palstra, Robbie Adams, Lesley Boyle, Charlie Marr and Martin Black. Ms. Elfeld also searched for addresses for the two bands, both of which operate under the name "The Verbs."

7. Ms. Elfeld was able to locate the address of defendant Freek Olgers, under whose name the website www.theverbs.nl, the website for the Netherlands version of The Verbs, was registered.

8. Ms. Elfeld has made additional searches but was unable to locate the addresses of the remaining defendants, Anne Witteman, Pieter De Vries, Jasper Palstra, Robbie Adams, Lesley Boyle, Charlie Marr and Martin Black.

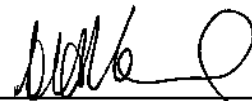
9. Defendants Anne Witteman, Freek Olgers, Pieter De Vries, Jasper Palstra are members of a band, entitled "The Verbs," who operate a MySpace website located at <http://www.myspace.com/theverbkeeponswinging>. This website, which indicates that the band is based in the Netherlands, invites viewers to contact the band by electronic mail, a link to which is provided on the website. This electronic mail address is the sole means provided to contact these defendants.

10. Defendants Robbie Adams, Lesley Boyle, Charlie Marr and Martin Black are also members of a band, also entitled "The Verbs," who operate a MySpace website located at <http://www.myspace.com/theverbsfife>. This website, which indicates that the band is based in the United Kingdom, invites viewers to contact the band by electronic mail, a link to which is provided on the website. This electronic mail address is the sole means provided to contact these defendants.

11. Plaintiff believes that sending a copy of the summons and complaint to the electronic mail addresses found at <http://www.myspace.com/theverbkeeponswinging> and <http://www.myspace.com/theverbsfife>, respectively, is a reasonably calculated method which will apprise each of the defendants that this action has been filed against them.

I declare under penalty of perjury that the foregoing is true and accurate.

Executed on November 2, 2007.



ANTHONY H. HANDAL